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March 1, 2012

Hon. David E. Peebles  
U.S. Magistrate Judge  
United States District Court  
Northern District of New York  
100 South Clinton Street  
P.O. Box 7365  
Syracuse NY 13261-7365

**Re: *Car-Freshner Corporation, et al. v. Getty Images, Inc.***  
**7:09-CV-1252 (GTS/TWD)**

Dear Judge Peebles:

We represent the defendants Getty Images, Inc. and Getty Images (US), Inc. ("Defendants") in this action. This letter, which we submit on behalf of both Defendants and Plaintiffs Car-Freshner Corporation and Julius Sämann Ltd. ("Plaintiffs"), is a discovery status report required by Magistrate Judge Lowe's Minute Text Order of February 1, 2012.

A brief recitation of the background may be useful. Plaintiffs filed their complaint on November 9, 2009, and their amended complaint on October 7, 2010. The amended complaint alleges that Julius Sämann Ltd. is the owner of certain registered and common law trademarks in a tree design (the "Tree Design Marks"), and that Car-Freshner Corporation is licensed to manufacture and market air fresheners and related products using those trademarks. Plaintiffs allege primary, contributory and vicarious infringement and dilution of the Tree Design Marks by Defendants, false designation of origin, as well as unfair competition and other related state law claims. Defendant Getty Images, Inc. is the parent of Getty Images(US), Inc. Getty Images (US), Inc. displays and licenses digital media for commercial and non-commercial use through its various websites.

In 2010, Defendants moved to dismiss the amended complaint or in the alternative for summary judgment. On September 27, 2011, Judge Suddaby granted the motion to dismiss with respect to Plaintiffs' allegations of vicarious infringement, but denied the motion with respect to all other causes of action. He declined to convert the motion to one for summary judgment.

While the Court's decision on Defendants' motion was still pending, Magistrate Judge Lowe granted Plaintiffs' request for limited discovery. Defendants produced documents

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responsive to Plaintiffs' first production requests and responded to Plaintiffs' first set of interrogatories. By way of subpoenas, Plaintiffs obtained documentation from, and deposed, a third-party witness (one of Defendants' licensees).

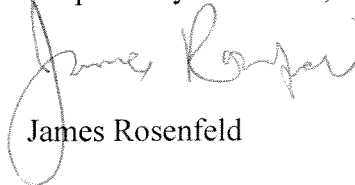
Following the September 27, 2011 decision on Defendants' motion to dismiss, Defendants filed their answer. Magistrate Judge Lowe thereafter approved the parties' civil case management plan, by issuing the Court's Uniform Pretrial Scheduling Order on November 29, 2011 (which was amended by the Court's Text Order on December 9, 2011). During a status telephone conference before Magistrate Judge Lowe, Defendants noted a possible future dispute over the number of depositions Plaintiffs anticipate taking in this action. Magistrate Judge Lowe deferred argument on that issue. *See* Minute Text Order, February 1, 2012.

Plaintiffs have served approximately 30 third-party document subpoenas on Defendants' licensees. Depending on how many witnesses Plaintiffs notice for deposition, Defendants may seek to raise the matter with the Court at the appropriate time.

Following agreed-upon extensions to discovery deadlines, on February 8-10, 2012, Defendants responded to Plaintiffs' second production requests and interrogatories; and on February 27, 2012, Plaintiffs responded to Defendants' first production requests and interrogatories. Although each party is currently reviewing one another's discovery objections and responses, the parties are not yet certain whether any disputes will require the assistance of the Court. The parties will confer in good faith to resolve discovery issues, and will seek the Court's assistance if they reach an impasse. The scheduling order requires that all fact discovery be completed by June 15, 2012.

Thank you very much for the Court's attention to this matter.

Respectfully submitted,



James Rosenfeld

JR/sn